

TO: STANDING COMMITTEE ON PLING AND ZONING (SC P&Z)  
CC: Framingham Town Clerk, Valerie Mulvey  
Planning and Development Director, Kathy Bartolini  
Planning Board Director, Jay Grande  
Zoning Board of Appeals Chair, Phil Ottaviani  
From: Hank Moran, SC P&Z Clerk  
Date: March 28, 2006  
Subject: Minutes of the March 6, 2006 Meeting of the SC P&Z

### **Attendance**

With a quorum present, Tom O'Neil, SC P&Z Chair, called the meeting to order at 7:10 PM. The following Committee members were present during part of or the entire meeting.

<b>Precinct</b>	<b>2005-2006 Member</b>
1	Theodore C Anthony, Jr.
2	Stephen Shull
3	Harold J. Moran, Clerk
5	Yaakov Cohn
6	Edward Levay
8	Tom O'Neil, Chair
12	Betty Muto
13	Gerald Couto
14	Judith P. Callahan
17	Ned Price, Vice Chair

### **1. Minutes from the February 6, 2006 Meeting**

The minutes of the February 7, 2006, meeting of the Committee were approved by a vote of 7-0-0.

### **2. Economic Development Industrial Corporation (EDIC) Report**

Glen Weisbrod presented to the Committee a copy of the EDIC Report and gave an overview of its contents. This Report will be presented at the April Town Meeting. He provided copies of the report to the Committee. Following are some points and questions raised during the discussion:

- Glen noted that EDIC had consulted with the Planning Board, specifically Jay Grande, Administrator, and Tom Mahoney, Chair, to consider how the EDIC programs could contribute to the Town Master Plan.
- Regarding Tax Title Lists, Tom O'Neil asked if we wanted to read the Tax title Lists, could we obtain them. Glen: yes, from the Assessor's office.
- Regarding State programs (e.g., Mass. Development), Tom O asked if any funding would require modification of local zoning. Glen: No, just informing that these funds exist. If businesses act, those actions may impact zoning depending on the project. The State gives funds to individual respondents, not to the Town.
- Betty M complimented Glen on the report and expressed appreciation for the work that went into it. She noted that recruitment of companies providing upper-end salaries to Framingham is difficult. She raised concern about brownfields and deteriorating properties in her precinct that are affecting her neighborhood and others in Town, and offered to address the EDIC on this matter.
- Ed Levay raised a concern about inadequate EDIC staff to manage the programs, and asked about the proposed improvements to the "Cultural Triangle" downtown. Glen noted plans for developing a broader mix of activities such as cultural performances that will attract businesses and people to the area, generate a broader tax base and jobs.
- Steve Shull also complimented the report, stating that it is the first report whose goals and accomplishments he was comfortable with. He asked who comprised the membership and was EDIC

in need of more members. Glen responded that there currently are 5 members, whereas the law requires a minimum of 7; they currently have two open positions. The membership has evolved over time to include people with backgrounds in finance, banking, and economic development who can address the issues of tax titles, financial backing, brownfields, and so forth. He also noted that members must be residents.

- Judy Callahan asked if the opportunity to become a member is posted. Glen: yes, on the website.
- Gerry Couto requested that when owners are contacted for potential reuse or redevelopment of their properties to ensure to check on the historical value of these properties.
- Hank Moran raised a question about the item in the report stating that the EDIC serves as administrator of the Town's Affordable Housing Trust Fund. Ann Welles of the Planning Board and Donna Jacobs of the MetroWest Growth Management Committee commented on the brief history and derivation of this provision of the Affordable Housing By-Law, which stipulates that any funds generated by the By-Law would be handled by EDIC, but to date no funds have been generated. Ned Price noted that there is not likely to be a lot of money involved. There just was a need to identify an agency to handle the funds. Over time this could change to a different agency.

**Hank Moran offered a motion, seconded by Judy Callahan, to support the EDIC report as written. The vote on this motion was 8-0-2.**

### **3. Planning-Board-Sponsored Articles**

Jessica Levengood, Senior Planner with the Planning Board (PB), provided an update on the PB's recent activities regarding zoning By-Laws. Also present for this presentation were PB Members Ann Welles and Andrea Carr-Evans, and Donna Jacobs, Director of the MetroWest Growth Management Committee, who has worked with the PB on various matters including the By-Laws.

Following is a summary of the information presented and the responses of Committee members:

- ***Amendments to the Light Manufacturing District (Section III F) and General Manufacturing Districts (Section III G) of the Town of Framingham Zoning By-Law.*** The PB wishes to amend these sections of the By-Law by adding to each the provision that the uses set forth in each of these Districts would require a special permit from the PB if the use is "with 8,000 or greater than 8,000 square feet of gross floor area." The purpose of these additions is to provide the PB the ability to require special permits for projects of this size, which would enable consideration of buffers, abutters, and other aspects of such projects. There is nothing now in the By-Law to enable this kind of review.

When asked "why 8,000 square feet?" Jessica responded that this is the same dimension as with other Districts.

When asked, "was there any specific property in mind when drafting the amendments?" Andrea noted that the recent conflicts regarding the zoning of properties on Old Connecticut Path, including the rezoning of certain parcels, brought attention to the need for these amendments, though the need for such oversight and review extends Townwide.

**Hank Moran offered a motion, seconded by Judy Callahan, to support these amendments to the By-Law as presented. The motion was passed with a vote was 9-0-1.**

- ***Low Impact Development.*** Jessica provided an updated draft of a potential Article that would amend the Zoning By-Law by inserting a new section on Low Impact Development. This was a continuation of discussion from the February 7 meeting of the Committee, where it was noted that there has been collaboration with the Town of Southborough on the development of the By-Law.

The proposed By-Law introduces provisions requiring that new developments, redevelopments, "and all land conversion activities" put in place storm-water and other land-management techniques that would "protect surface and ground water quality and quantity, to maintain the integrity of aquatic

living resources and ecosystems, and ... preserve the physical integrity of receiving streams and bodies.” Essentially the By-Law aims to require that storm-water flow be contained as much as possible on site rather than be allowed to run off onto other properties to the detriment of those other areas.

The purpose for presenting the information at this meeting was to increase awareness and educate the Committee on the latest developments, not to request a vote at this time. Town staff members and others who have reviewed the draft have expressed concerns about some provisions, notably enforcement. Donna confirmed that the By-Law does not have to go to the upcoming Annual Town Meeting in order to meet the requirements for the enabling grant. Work will continue as new information is gathered and input received. Donna is working on related regulations, which would not be incorporated within the By-Law itself. The plan is to initiate an education campaign, including a public hearing scheduled for March 16 and possibly a presentation on cable as outreach to the public. The hope is to bring the finished Article before Town Meeting perhaps in June.

Ann and Andrea also noted that a new State law on this topic planned to be in effect in 2008 has many communities working to address this area. The aim for Framingham is to get ahead of the curve and put the new requirements, considered the wave of the future, in place now.

They also called special attention to three significant items in the current draft:

- The trigger point for requiring a special permit is “any activity on a parcel of more than one acre” unless subject to certain exemptions listed in the document. There has been some feedback that this trigger point should be revisited. There also has been discussion about the possibility of combining into one omnibus By-Law the three “earth By-Laws” (earth removal, erosion control, slope) recently passed by TM, and using the same trigger for that By-Law as would be used for the one under discussion, which would be a stand-alone By-Law.
- There is a provision in the draft that would enable the PB to hire a 593 consultant to “assist the PB for review and comment prior to action by the PB in plan review, impact analysis, inspection or other technical or legal assistance necessary to ensure compliance with all relevant laws and regulations,” as well as other services.
- The section on Enforcement has been strengthened by the inclusion of tax liens and fines for violations of the requirements of the By-Law.

**Judy Callahan offered a motion, seconded by Betty Muto, to table discussion of the proposed By-Law until it is in finished form. The vote was 9-1-0 in support of this motion.**

**However, concern was raised that the purpose of this dialogue was to provide useful feedback to the PB, consistent with the purpose of the SC P&Z. Accordingly, Steve Shull offered a motion, seconded by Judy Callahan, to take the discussion off the table. The vote was 7-3-0 in support of this motion, and so the dialogue continued.**

Following are some points made during this discussion:

- Steve Shull asked if LID equals groundwater; expressed concern about whether the permitting process goes beyond the purview of the PB; concern also about the ability to implement ongoing monitoring and enforcement provisions; noted other aspects of the Zoning By-Law where better enforcement is needed (“this is the tip of iceberg with enforcement”); stressed the importance of buy-in from town departments.
- Ann responded that such input has been sought and received: Board of Health, Conservation Commission, DPW, and Inspection Services. Some of the enforcement issues will be addressed in the regulations, not in the By-Law itself. There is also a concerted effort underway to strengthen enforcement across the board. Mention has been made of perhaps developing a general By-Law on enforcement, but it is not certain that that would be the best way to achieve the objective.

- Steve raised concern about who should pay for ongoing enforcement: no problem with the costs of initial enforcement falling to the landowner, but questioned whether ongoing enforcement should be incurred by the landowner.
- Gerry Cuoto noted that the new requirements could raise the cost of ownership.
- Andrea responded that, depending on the techniques used, the requirements could instead facilitate cost reductions, such as by the use of green roofs.
- Donna noted that this effort is a test of where the Town wants to go with enforcement on environmental issues.
- Ann raised the question of whether single-family houses should be exempt. She also reminded that the requirements would apply only to projects triggered by the By-Law.
- Andrea reaffirmed that the PB would not go forward without the involvement of the Conservation Commission, DPW, Board of Health, and Building Inspector.

**Yaakov offered a motion, seconded by Ed Levay, to table further consideration of the proposed By-Law until the Article is in more finished form. The vote was 7-3-0 in support of this motion.**

#### **4. Discussion of Proposed By-Law on Occupancy of Buildings**

Town Meeting Member Jim Rizoli presented to the Committee copies of an Article proposing to amend the town By-Laws by adding add a new Section 24 entitled “Occupancy of Buildings,” which has been submitted for consideration and vote at Town Meeting.

The proposed By-Law includes the following provisions:

- Owners of rented or leased properties must obtain and post a certificate of registration from the Board of Health specifying the number of persons the “building or portion of a building may lawfully accommodate under the provisions of the Massachusetts State Sanitary Code.” The fee for this certificate would be \$50 and would have to be renewed annually for \$50.
- No person can lease, rent, or occupy such premises if the number of occupants exceeds the number authorized by the certificate of registration.
- The permit can be revoked or suspended if the “licensing authorities” find cause, following an investigation and hearing into the matter.
- Violators would be subject to a fine up to \$300.
- The requirement would not apply to boarding and lodging houses licensed under Chapter 130, Sections 2 and 23 of the General Laws.

Jim noted that the proposed By-Law was based on a similar By-Law from the Town of Milford, copies of which were provided to the Committee. He also noted that the purpose of the By-Law was to address the problem of overcrowding in Framingham. He cited instances in his own neighborhood and others where there was evidence of such overcrowding.

Betty Muto provided to the Committee copies of three recent newspaper article, two of which call attention to how overcrowding is being addressed in various nearby communities (among them Milford and Marlborough), and a third on the response of various communities (among them Framingham) to the Smart Growth developments promoted by Chapter 40R. Betty stressed that the principal concern here is with the health and safety of people living in crowded living circumstances, and that the legislation would serve to protect people from living in unhealthy and unsafe conditions.

Tom O’Neil noted that people will ask what the State Sanitary Code says about occupancy. Ned Price said that he would obtain the State Law and send it to Hank M for distribution to the Committee. (A copy is attached to these minutes.)

Yaakov Cohn noted that the Building Inspector recently spoke with the PILOT (Payment in Lieu of Taxes) Committee, pointing out that we have the law but we do not have home enforcement, unless a situation develops such as a fire, where a unit is entered and an overcrowded condition is revealed. He felt that the proposed By-Law does not adequately address the problems brought up by the Building Commissioner.

Ted Anthony stated that By-Laws are approved because there is a need for certain action but a lack of the tools to deal with the need; the legislation can give an impetus to getting something useful done.

Gerry Cuoto stated that the problem again is enforcement, not more regulation.

Ned stated that we must abide by the State requirements.

**Ned Price offered a motion, seconded by Ted Anthony, to support the Article as presented. The vote was 6-3-1 in support of the motion.**

#### **5. Old Business: Status of H1340 – Article 3 of 2004 Framingham Town Meeting**

Tom O provided an update on the Status of H1340. He described actions at the State level, including a meeting with a Counselor for the Committee on Municipalities, where several Framingham officials and residents presented positions on the matter, including State Representatives Debby Blumer and Tom Sannicandra. Among the speakers, Steve Kruger presented the arguments supporting the measure. Tom O reported on the support of the SC P&Z.

Bottom line is that the bill was referred from the Committee on Municipalities to the Committee on Housing, where, most people agree, it will die. The general feedback from sponsors is that it is going nowhere.

Tom has written a letter to the Board of Selectmen, with copies to our State Representatives, recommending that the status of H1340 be reported to Town Meeting.

#### **6. Adjournment**

At approximately 10:00 PM a motion to adjourn was made, seconded, and passed unanimously.